



**REGULAR MEETING
MINUTES
for
June 24, 2002
Art Pick Council Chamber
3900 Main Street, Riverside, CA**

Present: Commissioners Brewer, Davidson, Floyd, Gardner, Hendrick, Howe, Huerta and Ward

Absent: Commissioners Garcia

Chairperson Brewer called the meeting to order at 6:04 p.m. and led in the Pledge of Allegiance.

Motion was made by Commissioner Howe and seconded by Commissioner Hendrick to approve the minutes for the May 2002 monthly meeting and the June 10, 2002 case review meeting. The motion passed unanimously.

Executive Director's Report & Comments

Executive Director Williams said that, due to conflicts in some commissioners' schedules, the date of the July regular meeting was going to be changed from July 22 to July 29 and asked if any of the commissioners had a problem with the change. The commissioners were okay with the change.

Mr. Williams advised that the June Mayor's Night Out had been changed from June 27 to July 10.

Mr. Williams informed the Commission that George Carvalho, the new city manager, would be attending the next regular CPRC meeting.

As a side note, Mr. Williams told the Commission that the budget passed.

Commissioner's Comments

Commissioner Huerta said that as a result of a ride-along she'd done recently, she had a list of questions that she wanted to pass on to the Commission. Mr. Williams said that he would send a copy to the Police Chief for answers.

Commissioner Huerta also commented, on a more personal note that, having been a crime victim twice in recent months, she was very pleased with the police service she received. She noted that the officers who assisted her did not know that she was a commissioner.

Commissioner Gardner commented that he attended the dedication of a playground at Hunt Park in memory of Detective Doug Jacobs, who was killed in the line of duty last year. He said that it was a very nice event and that the Press-Enterprise had a nice follow-up piece in the paper the next day.

Chairperson Brewer stated that several of the commissioners attended the meeting held by the Human Relations Commission regarding the homicide that occurred downtown. He said that the meeting was well-run and made Riverside look good.

Commissioner Howe said that he wasn't able to attend, but watched it on TV and was pleased with what he saw.

Public Comments

Mr. Tom Kenny

This is concerning a sound ordinance for car stereos in Riverside and it's been an ongoing problem with me and a lot of people in the community and that it only seems to be getting more prolific and louder.

COMMISSIONER HUERTA – Can I just ask you to introduce yourself, sir, so we know who you are?

MR. KENNY – Oh, I'm sorry. I wasn't going to wait for the... My name is Tom Kenny, La Sierra, Ward 6.

CHAIRPERSON BREWER – Go ahead, Mr. Kenny.

MR. KENNY – So I've tried to get some kind of enforcement up and down the chain of command in the city from the traffic sergeant to the Mayor's office and all throughout the police office, also, and pretty much it's been to no effect. There hasn't been a change. The Police Department will not give me any statistics as to how many tickets have been written or what they've done to enforce the law and as the article reads, I was assaulted when my neighbor and I asked another neighbor to turn down his stereo, his car stereo. He went on a rampage and assaulted me and the police had to be called to restrain him.

So the letter just elaborates what I think about the situation here.

CHAIRPERSON BREWER – Don, do we have a complaint filed with us or with the Department?

EXEC. DIR. WILLIAMS – I don't think he would file a complaint. You're still going through the...

MR. KENNY – I wouldn't expect a complaint to have to be filed since it is a law and that you're just asking for enforcement of something obvious that can be heard from 1,000 feet away and all's you have to do is show number of tickets that have been written or some kind of data to support the police's statements that they have been enforcing it.

EXEC. DIR. WILLIAMS – One of the problems we're having with this one is...generally, our complaints are against Officer A, B, C, or D, or all three of them, and this is a difficult one because we're not talking about particular officers. We're talking about the way the Police Department itself is enforcing or not enforcing particular ordinances or whatever like that and we're trying to figure out...trying to get a handle on this thing. So really, any suggestions that any of you might have will be helpful. I don't know what kind of complaint action we could take or investigation that we'd take that

would seek the answer...I think he's got some very good answers... He's posed a problem – I mean, I know it's a problem. I've heard these things about every place...it seems like every day I drive I hear a couple of them and everything. You know, he's told there's action, but when he asks what kind of action are you taking, apparently there's not any...no one keeps statistics or if they are, they're not forthcoming with them to say, 'Well, we've written 18 tickets or we've done nothing or whatever,' you know? So that's generally the problem we've got with this thing. There's no individual, so...

CHAIRPERSON BREWER – I would suggest that we review the Policies & Procedures manual to see what is there at the time.

COMMISSIONER HENDRICK – Just today I was reviewing some of the mail that had come in the last few weeks and I saw something in there that was a policy change that was written by, I believe, Captain Dominguez, and it specifically dealt with loud noise and radio complaints and I thought, as I read it, that it had something to do with the situation involving Officer Jacobs. But it did talk about loud radios and that kind of thing and it came in the mail with some of the stuff we had, at least, the last two or three meetings ago.

MR. KENNY – About six weeks ago, I asked Captain Dominguez for any data as to how many tickets his officers have written. I have not heard back from him. I've called him a number of times. Lt. Mark Boyer works under him and he supposed to be handling it, too.

CHAIRPERSON BREWER – Well, again, we can review what information we have under Policies & Procedures and possibly come back with it and if we feel there's any need for a modification of the policy or procedures or a new policy, then we can make a recommendation on that even though we don't have a complaint, per se, against any individual.

Any other comments or suggestions?

MR. KENNY – There's one thing – I have a music degree from USC, so it's not like I'm opposed to music. I understand the music that they're playing and I...some of it I like. Eminem is okay if you want to listen to it, but not when it affects everyone else.

COMMISSIONER DAVIDSON – Have you gone repeatedly to the Police Department? It seems to me the complaint is not the law or whether it's enforced, but you getting an answer from the Police Department.

MR. KENNY – I was at the last Mayor's Night Out, which it was brought up, and as Lt. Cannon joked, he said he's known me for five years and I said it's been two-and-a-half and he said, 'Well, it feels like five.' So, yes, I've been in contact with Lt. Cannon a number of times, probably dozens.

COMMISSIONER DAVIDSON – And the answer to that is?

MR. KENNY – The answer is, like for the first one-and-a-half-years he did say that his officers were enforcing it and when it came down to the statistics, I was told actually that no tickets has been written in one-and-a-half years.

As far as anecdotal evidence, you can talk all you want, but if there's nothing to back it up, then it's not data.

COMMISSIONER HENDRICK – I found what I was referring to. It's a memo to Field Operations Personnel from Capt. Dominguez. Subject is Noise Ordinance Enforcement. It was written on December 7, 2001 and in here, it does talk about loud noises. It doesn't specifically identify car radios, but it talks about using radios, stereos, musical instruments, televisions or permitting such use

and it talks about the hours and if you can hear it from 50 feet away, it's a violation and so there has been something that's gone out to the field.

MR. KENNY – Okay, I'd be interested in seeing it, but I'd also like to hear back as to how it's being enforced specifically.

CHAIRPERSON BREWER – Don, if you're going to be contacting the Chief on other matters, we can also send a request for some information on this matter.

EXEC. DIR. WILLIAMS – Okay, the statistics and this type of thing? Statistical information? Okay. Alright.

MR. KENNY – Yes, the Mayor's Office has already asked for that. In response to that Mayor's Night Out question. That...I asked for specifics. That's what they gave me – a general answer. We regularly enforce it. That doesn't mean anything...

Okay. Thank you, sir.

Report on the Phaisouphanh Incident

Chairperson Brewer advised the public that there was a written report on the back table, noting that the report was a synopsis based on information that was obtained from the criminal investigation. He also noted that the Commission would make a determination, in closed session, as to whether in was or was not within policy. He explained that this was being done in closed session because the Commission had also reviewed the Internal Affairs investigation, which cannot be discussed in public. Chairperson Brewer then asked if anyone wished to address the Commission on this agenda item.

Ms. Chani Beeman

I'm not sure what kind of information you can share, but I'm wondering if there's a relationship between, oh, what's this number, the policy recommendation that...the response from Chief Leach basically saying, 'Thanks for your suggestion, but it's too cumbersome.' Is that related to the investigation?

CHAIRPERSON BREWER – No.

MS. BEEMAN – Okay, then I have some comments. One of the concerns around this shooting – and obviously you gleaned some information from the interviews from witnesses and that sort of thing – in your review, as difficult as it is, and it feels like second-guessing the officer and that's not what I'm trying to do, but I think it is important to look at the officer's approach to this call. And it seems pretty clear that the officer had a description of the suspect as crouching in the driveway. But the officer parked his vehicle very close to the driveway. And my concern is that if that sort of direct approach or confrontation with the suspect led to, you know, the kind of confrontation that occurred, the residents, in their statements, basically said they knew pedestrians should not be walking by this guy. You know, they knew that that was a problem. I'm concerned about a police officer walking right into that same situation. Not only for the suspect's safety, but also the officer's safety. And I think we really need to look at those kinds of factors. You know, this isn't about second-guessing the officer. This is about finding approaches and lessons from tragic situations that might help protect our officers. It might help diffuse situations in the future. So I hope that is part of the consideration. I'm a little concerned about Chief Leach's response to you and I think it's worth revisiting.

Thank you.

Ms. Mary Shelton

Well, I just got a copy of this, but I had some questions. Unfortunately, because of our state laws, we really don't have a good way or an equal way of examining the record or the background of the person that shot and of the officers that shot him. And it says here that he had a criminal record in three states, including California, which is... All the information that they give which may or may not be relevant, because I know that, in the case of Tyisha Miller, they had over a thousand pages on her and because she was unconscious in her car and officers didn't know who she was, it really didn't have any relevance to the situation at hand. It was just meant to paint a bad picture of her.

On the other hand, with the officers, we don't know anything about the officers. We didn't know what this guy's record was. I mean, when the story first broke, his name was Edgar Porche. Now they've got John Porche. All I know about him is that he had, from what I understand from what Lt. John De La Rosa said, he had about nine months on the force.

And I'm a little bit concerned with him arriving on the scene – apparently quite a bit of time before Officer Cook who, I think, has quite a bit more experience than Officer Porche. And this other officer arrived, too, how much time elapsed between... I mean it gives you some idea of the time with the Time Chart up till like, a certain point. But I'm just a bit concerned that we're back to the same situation, you know, where we were with the Tyisha Miller shooting when Daniel Hotard (sp?), an officer with about 10 months experience on the force, is designated the primary officer to respond to the Tyisha Miller shooting and ? was designated as secondary officer to respond to the shooting and he didn't

have the same amount of experience either. And I'm aware, also, that this shooting happened, I think, on a weekend. And we've had issues in the past where we were putting less experienced officers on the less desirable shifts like graveyard and weekend shifts.

So I just would like some more clarification about...because this is so much about what Officer Kirk and Officer...the other guy (unintelligible) were doing there and I understand that this happened apparently within a couple minutes, but I'm still concerned, I mean, that an officer that has nine months experience that was at the scene of this incident and the alleged suspect was dead within a couple of minutes and he had the... the suspect had the officer walking backwards towards his car where he is in a situation

where he is cornered or trapped and forced to respond with force. And I think that maybe the community needs to be more educated on how the Police Department deals with knife incidents because it seems like in...all across Southern California in the past year or so, there have been quite a few instances where...there was one in Long Beach where they shot a woman who had a knife and there was one in San Bernardino where they shot a 4'11", 98-lb. woman with a knife. And so I just think that there's some other areas besides the sequence of events that happened that need to be looked into.

Thank you.

Mr. Rich Biber

Good evening. My name is Rich Biber and I am the Richard Biber in the report and I came down here to see exactly what the resolution is because I was extremely concerned for the officer and I understand some of the concerns that I've heard.

I apologize for being late. I thought the meeting started at 6:30. I actually thought I was early.

With regard to some of the comments in the report and some of the comments that were made here

just by the last lady that spoke, I was out in front of my house no more than 45, 50 feet maximum away with clear view. When the officer came up, he was the first officer on the scene and he pulled up ahead of the driveway. If the driveway is here, he pulled up here at an angle so that he, his car was between him and the suspect, the decedent, rather. The decedent had showed a propensity for the first person to come along he was going to attack, because a fellow went by on a bicycle just before the officer got there and the guy got up as if to go after him, but the guy went by so fast he went back down. As soon as the officer pulled up, he wasn't even out of the car, the guy got up from this position and started down the driveway with knives in sort of an attack position with a wry smile on his face. The officer got out of his car, stayed at his car, pulled his weapon, told the fellow to stop. The reason the officer was backing up, in my mind, was that the officer was trying to diffuse the situation so he didn't have to fire his weapon. He came from the driver's side where he was stationed and he backed around the front of his own vehicle and up on the curb trying to get this fellow to stop and there was just...he was just coming at a steady pace, rather quick.

Everything happened just like that and I don't see it in the report, but I thought when the officer backed up and he wasn't really looking behind him, he bumped into the mailbox that's there right at the curb and the driveway. And it was at that point that I sensed that the decedent saw this as an opportunity and started to go forward quicker – almost like a lunge, even though he was 10 – 12 feet away. That's when the officer fired his pistol. I think, had the mailbox not been there, the officer would have backed up more until help arrived.

He was the first one on the scene. This guy was a dangerous person. He had already cut one guy. Already shown a propensity to go after the next person down the street and we had been out in front and we stopped some people from coming down the street because he would've...I'm sure he would've attacked anybody walking down the street.

I understand the concern that the officer only had nine months on the job, but I know a lot of very experienced police officers on the force – wonderful police officers with a lot of expertise and knowledge and wisdom – and I don't think any one of them would've acted any differently in that situation. This guy gave him absolutely no choice, in my mind, the mind of my three sons, my wife, who was all watching this whole thing. So I think the report that I read is accurate. I do want to say that the...immediately after the police got there – this was the ordination Sunday of our youngest boy – and an hour and ten minutes after this, he was ordained as a Lutheran pastor. And I warned my wife and my three sons and of course, myself, we did not discuss it at all until we gave our reports to the detectives, which mine came the next day. Two of my sons was that day and my youngest son was the next day also. So there was no discussion as to how this all happened. Everything in the report was as each of us saw it. If it paralleled to an alarming rate, it was because we saw exactly the same thing.

So I commend this officer for his ability to try to diffuse the situation and I am quite comfortable and I have talked to the family on occasion since the shooting and tried to explain to them that their son literally gave the officer no choice. I am 100% positive and comfortable in my heart that there probably was no other way to diffuse the situation and I'd be glad to answer any questions, but that's... I wanted to come down here. I wanted to see this thing to the end... I said I wasn't going to do that... Hard for the family. Hard for me to stand there and tell the family what I told the family in regard to their son and his death. But it's the God's honest truth and I just want you to know that this officer, in my mind, he has a year and nine months under his belt now and I hope that he stays on the force for another 25 or 30 years.

Thank you.

Subcommittee Reports

A. Investigator Guidelines – Bill Floyd, Chair

Commissioner Floyd reported to the Commission on the progress to establish guidelines for outside investigations. He reviewed the draft and the rationale behind it. There was discussion regarding the intent and language in the draft. Chairperson Brewer put this on the next month's agenda to give everyone a chance to thoroughly review the draft and hopefully vote on it.

B. OIS (OID) Procedures – Jack Brewer, Chair

Chairperson Brewer stated that Mr. Williams has prepared a letter to the City Manager requesting a meeting between the City Manager, the City Attorney, the Police Chief, the Executive Director and possibly a commissioner to discuss the concerns of the Commission on the way the reporting of the Phaisouphanh incident was handled and discuss how the process can be improved. He also said that the subcommittee would be meeting in the near future.

Closed Session – Case Reviews

Pursuant to Government Code Section 54957, the Commissioners adjourned to Closed Session at 7:18 p.m. to review the following case(s) involving PUBLIC EMPLOYEE PERSONNEL MATTERS:

<u>CPRC CASE NO.</u>	<u>IA CASE NO.</u>
02-010	PC-02-015-219
02-012	PC-02-031-215
02-014	PC-02-048-220
02-016	PC-02-051-065
02-025	PC-02-095-080
02-031	PC-02-093-128
02-034	PC-02-095-083
02-040	PC-02-116-101
01-154	PC-01-313-048
OID 01-001	P3-01-161-141

The Commission adjourned at 9:00 p.m.

Respectfully submitted,

PHOEBE SHERRON
Administrative Clerk